MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 2, 2019/2020

UCL3622 – COMPANY LAW II

(All sections / Groups)

11 MARCH 2020

Reading time: 9.00 a.m. to 9.15 a.m.
(15 Minutes)
Answering time: 9.15 a.m. – 12.15 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY on their question paper. Students then have the remaining **THREE HOURS** to answer the questions.

2. This question paper consists of 3 pages with 5 Questions only.

3. Answer **ALL** questions in **PART A** and **ONE (1)** question in **PART B**. All questions carry equal marks and the distribution of the marks for each question is stated.

4. Students are only allowed to bring in CLEAN AND ORIGINAL COPY of the following statutes into the exam venue:

   i. COMPANIES ACT 2016; and
   ii. CAPITAL MARKETS AND SERVICES ACT 2007.

   "Clean" is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.

5. Please write all your answers in the Answer Booklet provided.

PART A: ANSWER ALL QUESTIONS.

QUESTION 1

As the directors of BeeAnt Sdn. Bhd. ("BeeAnt") who also held 60% of its shares, Rajib and Nosmar always ignored the views of the minority shareholders on the issues relating to the management and affairs of the company. They always rode roughshod over the others and treated the company as their own business. They always flew with business class at the company's expenses despite that there had been a resolution prohibiting anyone to fly other than with economy class at the expense of the company.

Although the company continued to make handsome profit, there had been no distribution of dividends for the past four years. Conversely, the directors' remuneration had since been substantially increased.

Rajib and Nosmar jointly owned a piece of rural land which was assessed to be worth of RM300,000.00. They acted in their capacity of directors of BeeAnt, purchased that piece of land at the price of RM1.5 million. The purchase price was paid using BeeAnt's money.

Despite numerous requests from one of the minority shareholders, Keet Xiang, to inspect the financial records of the company, the requests fell on deaf ear.

Some of the minority shareholders namely Keet Xiang, Anuar and Madek were frustrated with the scenarios. It is to be noted that Madek was recently being transmitted with 200 shares of the company after his father's demise. His name was, however, yet to be entered into the register of members.

Identify the legal issues and advise the three of them on what they can do about the whole scenario.

(Total: 25 marks)

QUESTION 2

Janise & Hannah Bhd. ("J&H") was a company incorporated in Sibu, Sarawak in November 2013 manufacturing Sarawak local delicacies. At the time of incorporation, the capital of J&H was RM300,000.00 being divided into 150,000 ordinary shares and 150,000 preference shares. Samarahan and Rejang, who are the directors and shareholders of J&H, hold 40% of the preference shares respectively. Sarikei holds the remaining preference shares.

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After years of operation, for its success, J&H decided to expand its business to other states in Malaysia. Additional capital is therefore needed for the business expansion plan. Subsequently, the directors of J&H propose to issue 300,000 preference shares to some business partners of J&H ranking *pari passu* with the existing preference shares. Feeling that his rights might have been compromised, Sarikei objects to the proposal of issuing new preference shares.

It is to be noted that J&H does not have a company constitution, and the terms of issue of the existing preference shares do not mention about the issuance of new preference shares.

Examine whether J&H may proceed with the issuance of the new preference shares.

(Total: 25 marks)

QUESTION 3

A company is generally prohibited from giving financial assistance for the purchase of its own shares or that of its holding company. However, this prohibition is somehow relaxed by the Companies Act 2016 itself for a non-public listed company.

With reference to the Companies Act 2016 and decided cases, examine the above proposition.

(Total: 25 marks)

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PART B: ANSWER ONE QUESTION ONLY

QUESTION 4

BigBen Sdn. Bhd. ("BigBen") obtained a loan of RM1 million from Teguh Bank Bhd. in January 2018. This loan was secured by a fixed charge on the company's office premises. However, due to an oversight, the charge was not registered as required under the Companies Act 2016. In March 2018, BigBen borrowed RM100,000.00 from Max, an unsecured creditor. BigBen then borrowed RM500,000.00 from SuperBank Bhd. in August 2018 and gave to SuperBank Bhd., as security for the loan, a debenture secured by a floating charge over its inventory and this charge was immediately registered. BigBen subsequently suffered financial problems. In September 2018, a creditor presented a petition for the winding up of the company. The winding up order was granted by the Court in January 2019.

Examine the following issues:

i) The priority rights of the creditors.

(12 marks)

ii) Whether the validity of any of the charges can be challenged.

(13 marks)

(Total: 25 marks)

QUESTION 5

(a) The directors of Zenith Bhd. wish to call a meeting to pass the following resolutions:

(i) To remove the company's directors;
(ii) To vary the class rights of the preference shareholders.

Ascertain the requirements under the Companies Act 2016 to execute the above process.

(12 marks)

(b) Analyse the different types of members' meetings which may be held by registered companies.

(13 marks)

(Total: 25 marks)

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